

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

PAULINE A. LUNA,

Plaintiff,

v.

NANCY A. BERRYHILL,¹

Acting Commissioner of Social Security,

Defendant.

Case No. 2:16-CV-76-SNLJ

MEMORANDUM AND ORDER

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant’s final decision denying plaintiff’s application for benefits under the Social Security Act.

Defendant’s motion to reverse and remand (#29) is pending before the Court.

In her motion, defendant requests that the Court reverse the decision of the administrative law judge (“ALJ”) and remand this action to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g). Defendant states that, after careful review of the record, defendant has determined that the case should be remanded for further consideration by the Social Security Administration. Defendant contends that remand is needed so the ALJ can reevaluate the evidence in the record, including the treating physician’s opinion. Plaintiff responded (#30) and has no objection to defendant’s motion.

¹ Nancy A. Berryhill is now the Acting Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill is substituted for Acting Commissioner Carolyn W. Colvin as the defendant in this suit.

Sentence four of 42 U.S.C. § 405(g) states that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner, with or without remanding the cause for a rehearing.” For the Court to properly remand a case to the Commissioner pursuant to sentence four, the Court must enter an order either affirming, modifying, or reversing the Commissioner’s decision. *See Brown v. Barnhart*, 282 F.3d 580, 581 (8th Cir. 2002).

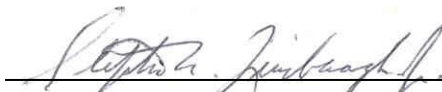
The Court will reverse and remand this case so the Commissioner can take further action as requested in her motion.

Accordingly,

IT IS HEREBY ORDERED that defendant’s motion to reverse and remand (#29) is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner be **reversed** and this cause be **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) for those reasons set forth in this Memorandum and Order.

So ordered this 4th day of January 2018.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE